

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Leroy Hall McCoy,

4 Petitioner

5 v.

6 Calvin Johnson, *et al.*,

7 Respondents

Case No.: 2:21-cv-01966-APG-EJY

**Order Granting Petitioner's Motion to
Voluntarily Dismiss Claims**

[ECF No. 39]

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9 In his *pro se* 28 U.S.C. § 2254 petition for a writ of habeas corpus Leroy Hall McCoy
10 challenges his convictions for kidnapping, attempted murder, and battery. ECF No. 6. In January
11 2024, the court denied McCoy's motion for stay and abeyance and directed him to either: (1)
12 submit a sworn declaration to this court voluntarily abandoning the unexhausted claims and
13 proceed only on the exhausted claim; or (2) inform this court that he intends to return to state
14 court to exhaust his unexhausted claims, in which case his federal habeas petition will be denied
15 without prejudice. ECF No. 38. In response, McCoy has filed what he styled as a motion to
16 voluntarily dismiss his unexhausted claims. ECF No. 39.

17 I THEREFORE ORDER that petitioner's motion to voluntarily dismiss grounds 1(a),
18 1(b), and 1(d) **[ECF No. 39] is granted**. Those three claims are dismissed.

19 I FURTHER ORDER that the respondents have **60 days** from the date of this order to file
20 a response to the remaining claim in the petition.

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22 DATED this 11th day of April, 2024.

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24 ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE